

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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PAUL PENKALSKI,

Plaintiff,

v.

WDWI Case No. 08-C-0544

MARK GUTHIER,

Defendant.

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**ORDER**

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Plaintiff Paul Penkalski proceeds *pro se* in this action under 42 U.S.C. § 1983 with a claim that defendant Mark Guthier, Director of the Wisconsin Union at the University of Wisconsin–Madison, violated his Fifth Amendment right of due process by denying him the benefits of his membership in the Wisconsin Union. Penkalski wrote the Court and made a second request for court-appointed counsel, along with “an indefinite extension of the deadline for anything I have to file” while the Court considers such a request. (Doc. # 19 at 5.)

Penkalski doubts his ability to respond to the defendant’s pending motion for summary judgment and claims that part of his inability to prosecute this action is attributable to the stress he is under as a result of defendant’s alleged wrongdoing. He claims that it took him many months just to write the five-page letter he sent to the Court and that he can no longer read or understand any legal documents. Though the posture of this case no longer permits Penkalski to voluntary dismiss this action unilaterally, the Court notes that should Penkalski believe that he no longer has the

wherewithal to prosecute this action, Fed. R. Civ. P. 41(a)(1)(A)(ii) provides that when the parties stipulate to the dismissal of an action, the case terminates.

I remain unconvinced that this case warrants the Court taking the exceptional step of recruiting counsel for Penkalski. As I noted in denying his original motion to appoint counsel, his claim does not appear legally or factually complex such that attorney representation would be essential to insure a just result. Penkalski has demonstrated his ability to communicate effectively in writing. Accordingly, his request for appointment of counsel will be **DENIED** without prejudice. Penkalski's request to indefinitely stay all deadlines in the case until he obtained counsel is also **DENIED**. Penkalski must respond to defendant's motion for summary judgment on or before September 2, 2009.

**SO ORDERED** this 24th day of August, 2009.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge